



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: May 2, 2011

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Steven L. Medlin, AICP, City-County Planning Director *S.L. Medlin*

Subject: Expedited Hearing Request for Crowne Pointe (Zoning Case Z1100003)

Summary. The applicant for zoning map change case Z1100003 (Crowne Pointe) has requested that an expedited hearing be granted, due to a June 10, 2011 deadline for tax credit financing that requires all zoning approvals to be in place. The applicant is requesting a change in zoning from RS-20 (Residential Suburban-20) to RS-M(D) (Residential Suburban Multifamily with a development plan). The development plan shows the construction of 58 multifamily units on Barbee Road, just north of I-40. Although not committed, the applicant indicates that the units affordable and/or subsidized rental units.

The request for an expedited hearing meets the requirements of Section 3.5.11.B of the Unified Development Ordinance (UDO). However, the granting of an expedited hearing is solely at the discretion of the City Council. Also, the granting of an expedited hearing in no way obligates the Council to vote in favor of the zoning map change request. In an email to the Planning Director on March 23, 2011, the applicant stated that he was made aware of the relevant deadline in early December 2010, prior to the submittal of the zoning map change application, but delayed making the request until March 22nd.

If granted an expedited hearing, the application cannot be continued by the Planning Commission, and must be scheduled for the first available City Council meeting after the Planning Commission hearing. Should the expedited hearing be granted, the request could be scheduled for the May 10, 2011 Planning Commission meeting, subject to the case being ready for consideration, and the June 6, 2011 City Council meeting.

Recommendation. The request meets the criteria for an expedited hearing in Section 3.5.11.B.4.a. of the UDO, however the granting of the request is entirely at the discretion of the City Council.

Background. Pabst & Hillburn, PA on behalf of the property owner submitted a zoning map change application and development plan for 7.29 acres of land on Barbee Road,

just north of I-40. The request is to change the zoning designation from RS-20 to RS-M(D) for 68 multifamily units. The requested density of 8 units per acre is consistent with the Future Land Use designation of the Comprehensive Plan, which recommend Low-Medium Density for the site. A Traffic Impact Analysis was not required.

The development plan has received two rounds of staff review. Should the third submittal be clean of all comments, the request could be scheduled for the May 10, 2011 Planning Commission meeting. Based on normal scheduling, the request would not be scheduled for a City Council public hearing until August 1st (due to the July holiday). The Planning Commission has (by ordinance) up to three months to consider items.

On March 22, 2011, the Planning Department received a written request from co-developer Jim Yamin (see attachment 2) requesting an expedited hearing from the City Council. The stated reason for the request is a June 10, 2011 tax credit financing application deadline of the North Carolina Housing Finance Agency (NCHFA) requiring all zoning approvals to be in place. In an email to the Planning Director on March 23, 2011, the applicant stated that he was made aware of the relevant deadline in early December 2010, prior to the submittal of the zoning map change application, but delayed making the request until March 22nd.

Section 3.5.11.B of the Unified Development Ordinance (UDO) authorizes the City Council to expedite the public hearing for zoning map change requests that meet certain criteria. One of the criteria is that a local, state, or federal application deadline for funding necessitates expedited consideration. Additionally, an expedited request shall not be granted if a Comprehensive Plan Amendment or Traffic Impact Analysis is required in association with the zoning map change application. The UDO also requires that the City Council public hearing for the zoning change be at least 30 days from the granting of the expedited hearing. If granted an expedited hearing, the Planning Commission is only given one meeting, and must be scheduled for the first available City Council meeting after the Planning Commission hearing.

A previous zoning map change request was submitted for this site in 2006. Case Z06-42 (Barbee Road Townhomes) was a request to change the zoning to PDR 6.310 for 43 townhome units. The request was withdrawn after the first Planning Commission hearing after experiencing significant opposition from the adjacent neighborhood.

Issues. Should the expedited hearing be granted, the request could be scheduled for the May 10, 2011 Planning Commission meeting and the June 6, 2011 City Council meeting. This would allow the applicant to potentially receive the appropriate zoning approvals, contingent on Council action, to meet the stated NCHFA application deadline of June 10, 2011.

Based on the previous zoning case on this property, neighborhood opposition to this zoning map change request is likely. If an expedited hearing is granted, opponents could not be granted a deferral or continuance at the Planning Commission hearing.

Fiscal Impact. None.

SDBE Impact. None.

Attachments

Attachment 1, Context Map

Attachment 2, Applicant's Expedited Hearing Request

Attachment 3, Resolution